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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,566	02/21/2001	TsuneYuki Kikuchi	Q63195	5930
7590 01/22/2007 SUGHRUE, MION, ZINN, MACPEAK & SEAS 2100 Pennsylvania Avenue, N.W. Washington, DC 20037			EXAMINER CHANKONG, DOHM	
			ART UNIT 2152	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			01/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/788,566		KIKUCHI, TSUNEYUKI	
	<b>Examiner</b>		<b>Art Unit</b>	
	Dohm Chankong		2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 3-9, 11, 14-20 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-9, 11, 14-20 and 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1> This action is in response to Applicant's remarks and amendments, filed 11.7.2006.

Claims 1 and 21 are cancelled. Claims 3-9, 11, 14-20 and 22-24 are presented for further examination.

2> Because of a new grounds of rejection, this is action is non-final.

### Response to Arguments

I. WITH RESPECT TO CLAIM 3, APPLICANT'S ARGUMENTS HAVE BEEN CONSIDERED BUT ARE NOT PERSUASIVE AS ABRAHAM DISCLOSES MONITORING A FIRST AND SECOND TIME.

Applicant's arguments have been fully considered but they are not persuasive.

Applicant has rewritten claim 3 in independent form incorporating the limitations of claim 1.

Applicant argues that Abraham does not disclose an analyzer which monitors a second time at which packets arrive. In particular, Applicant argues that Abraham fails to disclose monitoring a first time and a second time that the packet arrives (at the packet monitoring device). However, this statement presumes that the first and second time are related to the same packet.

Instead, Applicant's claims recite storing a first time of any packet when the monitor device receives a request to monitor that particular packet. The second time is related to any packet that meets said monitoring parameter. Thus, the first time and second time are not necessarily related to the same packet. Rather, there is a limitation directed towards recording a time when a packet arrives when there is a request to monitor that particular

packet; this is the first time. Additionally, there is a limitation directed towards recording a time when any packets that meet a particular monitoring parameter arrive; this is the second time. Thus, the Office interprets these limitations as requiring two different ways for a packet arrival time to be monitored, by request or by meeting a particular threshold requirement. Abraham discloses both first and second times as claimed by Applicant.

A. Abraham discloses storing a first time at which a packet arrives, when receiving a request to monitor said packet.

Contrary to Applicant's arguments, Abraham discloses both a first time, related to monitoring a packet when the monitor device receives a request to monitor said packet, and a second time, related to a packet that meets said monitoring parameter. With respect to the first time, Abraham discloses monitoring a time at which a packet transmitted from an end-user arrives, when said packet monitor device receives a request to monitor said packet [column 5 «line 63» to column 6 «line 4» | column 8 «lines 23-25» | column 43 «lines 38-46»]. Abraham discloses recording the start time ("first" time) for all packets during a user session, where the user logging into the session analogous to a "request" to monitor packets. This interpretation of Abraham's functionality as being analogous to a "request" to monitor is echoed by Applicant's specification [pg. 3 «lines 8-10» | pg. 7 «lines 1-3»].

B. Abraham also discloses storing a second time at which packets meeting said monitoring parameter arrive.

In addition to monitoring the start times of packets sent during a user session, Abraham also discloses monitoring the start times of packets that meet certain monitoring rules (parameters) [column 41 «line 53» to column 42 «line 20»]. Abraham's use of rules is analogous to Applicant's claimed monitoring parameter. Only those packets that meet the

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rules are recorded, including the start time, which is analogous to Applicant's claimed second time.

II. WITH RESPECT TO CLAIMS 8 AND 19, APPLICANT'S ARGUMENTS HAVE BEEN CONSIDERED BUT ARE NOT PERSUASIVE AS ABRAHAM DISCLOSES RETRIEVING INFORMATION FROM A USER MANAGEMENT TABLE BASED ON A USER ID AND PASSWORD.

Applicant argues Abraham does not teach that the user management table is retrieved based on the password input by the user. However, this is plainly incorrect as a user cannot access the network or system unless he supplies both a user ID and a password [column 12 «lines 15-25»]. Based on a successful login, that is, having both a valid ID and password, the appropriate user rules and parameters can be retrieved from the management table [column 59 «lines 12-22»]. Thus, Abraham does disclose a user supplying both a user name and password in order to retrieve information from a management table.

III. WITH RESPECT TO CLAIM 4, APPLICANT'S ARGUMENTS HAVE BEEN CONSIDERED AND ARE PERSUASIVE.

Applicant argues that Abraham does not disclose updating monitoring and threshold parameters, when instructed by an end-user. Applicant's arguments are persuasive and a new grounds of rejection addressing this deficiency are introduced in this action.

IV. CONCLUSION

Based on the foregoing remarks, the rejection of claims 3, 6-9, 11, 14, 17-20 and 22-24 are maintained. The rejections of claims 4, 5, 15 and 16 are withdrawn but a new grounds of rejection is set forth in this action for these claims.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3> Claims 3, 8, 14 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. These claims are rejected for reciting "an interval in said second time." It is unclear how there can exist an interval in a single moment of time. Appropriate correction is required.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4> Only those claims that have been amended by Applicant are formally addressed in this action. The text of those sections, including those claims not formally addressed here, of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5> Claims 3, 6-9, 11, 14, 17-20 and 22-24 are rejected under 35 U.S.C §103(a) as being unpatentable over Abraham et al, U.S Patent No. 5,983,270 ["Abraham"], in view of Nickles, U.S Patent No. 6,134,591.

6> As to claim 1, Abraham discloses a system for monitoring packets transmitted on a channel connecting an application server and an end-user of said application server to each other, comprising:

a certification server which certifies the end-user [column 5 «line 63» to column 6 «line 4»]; and

a packet monitor device which, on receipt of a request from said certification server, monitors packets transmitted on said channel [column 1 «lines 13-17» | column 7 «lines 51-67»],

wherein said certification server includes:

a first memory which stores a user management table including ID numbers of end-users, a monitoring parameter designating a packet to be monitored, a threshold parameter designating a method of monitoring said packet [Figures 9D, 17, 25A, 25B : notify rule, log rule | column 15 «lines 35-40»]; and

a second device which transmits a request to said packet monitor device to start or finish monitoring said packet at a timing when said end-user logs-in or logs-out the terminal [column 9 «lines 1-10»];

wherein said packet monitor device includes:

a fourth memory which stores a first time at which a packet transmitted from one of said application server and said user arrives, when said packet monitor device receives a request from said second device to monitor said packet [Figure 20 | column 47 «lines 14-24» | see also response to arguments above];

an analyzer which monitors a second time at which packets meeting said monitoring parameter arrive, and determines whether any rule has been satisfied in an interval in said second time [column 7 «lines 51-67» | column 9 «lines 51-65» | column 47 «lines 14-24» | see also response to arguments above]; and

an annunciator which makes annunciation to said user when there is a certain rule in said interval [Figure 26 | column 11 «lines 53-64» | column 13 «lines 62-67»].

Abraham does not expressly disclose storing a password in the table or a threshold parameter or a threshold parameter designating a method of monitoring said packet

7> Abraham does disclose storing user's information, including the user's ID and access level [column 16 «lines 6-9»]. Additionally, as is well known in the art, Abraham also discloses the feature whereby a user logs on to his terminal using a password [column 5 «lines 63-67» | see also response to arguments above]. In a related field of invention, Nickles discloses a management database that stores usernames with their respective passwords for the same purpose as Abraham [Figure 7 «item 708a» | column 6 «lines 7-17»]. Therefore it would have been obvious to one of ordinary skill in the art to have reasonably inferred that Abraham's management table would contain passwords. Such a feature is implied by Abraham because he teaches that a user is monitored only after logging into the LAN. One of ordinary skill in the art would understand this to include submitting a user ID and a password as is well known in the art. Thus, passwords are stored with user IDs, as further evinced by Nickles.



8> As to claim 8, Abraham discloses a method of monitoring packets transmitted on a channel connecting an application server and an end-user of said application server to each other, comprising the steps of:

acquiring a monitoring parameter indicative of a packet to be monitored, when said end-user logs-in his|her terminal [column 5 «line 63» to column 6 «line 4»];

monitoring a time at which packets coincident with said monitoring parameter arrive, and determining whether there is any rule in an interval in said arrival time [column 7 «lines 51-67» | column 11 «lines 53-64»];

making annunciation to said end-user when there is a certain rule in said interval [column 13 «lines 61-67»],

wherein said monitoring parameter is included in a user management table which further includes an ID number of said user and a threshold parameter designating a method of monitoring said packet [Figures 9D, 17, 25A, 25B : notify rule, log rule | column 15 «lines 35-40»], and said step includes the steps of:

retrieving said user management table, based on said ID number input by said end-user [column 8 «lines 13-25» | column 16 «lines 12-19» : user must log in to the LAN before monitoring begins – process of logging in submits his user ID];

acquiring said monitoring parameter, if said monitoring parameter is stored in said user management table [Figure 17 : user rules]; and

acquiring said threshold parameter, if said threshold parameter is stored in said user management table [Figures 17, 25B : user policies such as quota limit | column 34 «lines 11-58»].

Abraham does not disclose storing a password related to the users.

1> Abraham does disclose storing user's information, including the user's ID and access level [column 16 «lines 6-9»]. Additionally, as is well known in the art, Abraham also discloses the feature whereby a user logs on to his terminal using a password [column 5 «lines 63-67»]. In a related field of invention, Nickles discloses a management database that stores usernames with their respective passwords for the same purpose as Abraham [Figure 7 «item 708a» | column 6 «lines 7-17»]. Therefore it would have been obvious to one of ordinary skill in the art to have reasonably inferred that Abraham's management table would contain passwords. Such a feature is implied by Abraham because he teaches that a user is monitored only after logging into the LAN. One of ordinary skill in the art would understand this to include submitting a user ID and a password as is well known in the art. Thus, passwords are stored with user IDs, as further evinced by Nickles.

9> As to claim 14, as it is merely directed to a medium that stores the system of claim 3, it does not teach over the claimed limitations. Therefore claim 14 is rejected for the same reasons set forth for claim 3.

10> As to claim 19, as it is merely directed to a medium that stores the system of claim 8, it does not teach over the claimed limitations. Therefore claim 19 is rejected for the same reasons set forth for claim 8.

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11> Claims 4, 5, 15 and 16 are rejected under 35 U.S.C §103(a) as being unpatentable over Abraham in view of Engel et al, U.S Patent No. 6,115,393.

2> As to claim 4, Abraham discloses a system for monitoring packets transmitted on a channel connecting an application server and an end-user of said application server to each other, comprising:

a certification server which certifies the end-user [column 5 «line 63» to column 6 «line 4»]; and

a packet monitor device which, on receipt of a request from said certification server, monitors packets transmitted on said channel [column 1 «lines 13-17» | column 7 «lines 51-67»],

wherein said certification server includes:

a first memory which stores a user management table including ID numbers of end-users, a monitoring parameter designating a packet to be monitored, a threshold parameter designating a method of monitoring said packet [Figures 9D, 17, 25A, 25B : notify rule, log rule | column 15 «lines 35-40»]; and

a second device which transmits a request to said packet monitor device to start or finish monitoring said packet at a timing when said end-user logs-in or logs-out the terminal [column 9 «lines 1-10»].

Abraham does not disclose that the monitoring and threshold parameters are updated by instruction of the end-user.

12> Engel discloses a network monitoring system. Engel discloses that monitoring and threshold parameters that dictate what packets are to be monitored are controlled by an end-user [column 30 «line 55» to column 31 «line 13»]. It would have been obvious to one of ordinary skill in the art to modify Abraham to include Engel's functionality. One would have been motivated to provide such functionality to enable all network users to modify parameters associated with the monitors of a network; this capability is "normally the prerogative of the system administrator" and thus Engel's teachings would benefit Abraham's network monitoring system.

13> As to claim 5, Abraham discloses the packet monitor device including:  
a second memory which stores said monitoring parameter transmitted from said second device [column 7 «lines 22-50»];  
a third memory which stores said threshold parameter transmitted from said second device [column 2 «lines 47-53» | column 7 «lines 22-50»]; and  
a third device which said third and fourth memories when said second device transmits a request to said packet monitor device to start or finish monitoring said packet [column 6 «line 60» to column 7 «line 3» | column 7 «lines 22-50» | column 47 «lines 5-24»].

14> As to claims 15 and 16, as they do not teach or further define over previously claimed limitations, they are rejected for at least the same reasons set forth for claims 4 and 5, respectively.

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*Conclusion*

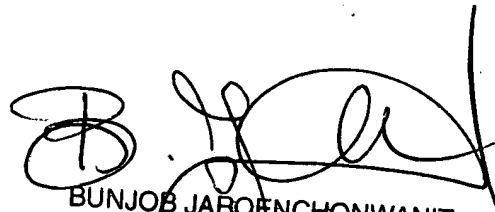
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942.

The examiner can normally be reached on Tuesday-Friday [7:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DC

  
BUNJOB JAROENCHONWANIT  
SUPERVISORY PATENT EXAMINER